

VZCZCXRO5733  
PP RUEHGH RUEHLMC  
DE RUEHUM #0380 1360744  
ZNR UUUUU ZZH  
P 160744Z MAY 06  
FM AMEMBASSY ULAANBAATAR  
TO RUEHC/SECSTATE WASHDC PRIORITY 9890  
INFO RUEHUL/AMEMBASSY SEOUL 2241  
RUEHBJ/AMEMBASSY BEIJING 4979  
RUEHOT/AMEMBASSY OTTAWA 0313  
RUEHKO/AMEMBASSY TOKYO 2101  
RUEHMO/AMEMBASSY MOSCOW 1484  
RUEHBY/AMEMBASSY CANBERRA 0069  
RUEHGH/AMCONSUL SHANGHAI 0011  
RUEHSH/AMCONSUL SHENYANG 0213  
RUEHHK/AMCONSUL HONG KONG 0745  
RUEATRS/DEPT OF TREASURY WASHDC  
RUCPODC/USDOC WASHDC 1016  
RUEHLMC/MILLENNIUM CHALLENGE CORP WASHINGTON DC 0258

UNCLAS ULAANBAATAR 000380

SIPDIS

SENSITIVE  
SIPDIS

STATE FOR EAP/CM  
STATE PASS USTR FOR WINELAND  
DEPT OF COMMERCE FOR ZHEN GONG CROSS

E.O. 12958: N/A  
TAGS: [EMIN](#) [ETRD](#) [EINV](#) [PREL](#) [PGOV](#) [MG](#) [HK](#) [CA](#)  
SUBJECT: FOREIGN INVESTORS CONCERNED AS WINDFALL MINING  
TAX PASSES  
SENSITIVE BUT UNCLASSIFIED - NOT FOR INTERNET  
DISTRIBUTION.

Ref: ULAANBAATAR 261 (notal)

¶1. (SBU) On May 12, Mongolia's State Great Hural (SGH), or Parliament, passed a controversial windfall profits tax on copper and gold. This law moved through the typically glacial SGH process at light speed, being passed less than two weeks after it was initially proposed without any opportunity for public or industry comment. Proposed by Member of Parliament Batbayar and supported by his party, the ruling coalition Mongolian People's Revolutionary Party (MPRP), this law found traction in the current environment of public protests and concern over foreign investment in the mining sector (reftel).

¶2. (SBU) Post has just obtained a Mongolian version of the law, although it was a struggle as no copy was made available by the SGH, despite repeated requests from and to multiple sources and in contravention of the SGH's policy that all drafts and laws are public at each phase of the parliamentary process. Once translated, post will provide a fuller analysis, but reports indicate that the legislation provides for a tax of 68% when copper prices reach US\$2,600 a ton (US\$1.18 per pound), and when gold reaches US\$500 an ounce. It is unclear whether earlier investments are grandfathered or not. Foreign mining companies are concerned that this may be but the first in a series of similar legislation, including populist proposals that the government receive a majority equity stake in foreign mining ventures.

¶3. (SBU) According to SGH Secretariat sources, the windfall profits legislation has not yet been passed to Mongolia's President for review. Under the Constitution, the President has five working days to review the bill once it reaches him, and has the opportunity to veto it in full or in part.

¶4. (SBU) On May 10, DCM, Econ/Coml Chief, and Senior

Commercial Assistant met with the Presidential Foreign Policy Advisor Tsogtbaatar (strictly protect) to urge caution on this and related mining legislation, lest there be damage to the business and investment environment. Tsogtbaatar expressed personal concern about the risks and negative trends in such legislation and said the President was also concerned about it. That said, he left the impression that the President would probably not/not veto such legislation as he needed to "keep his powder dry" for potentially larger, more serious attacks looming against the GOM's market economy principles. DCM cautioned that, having already lost control of the initiative, failing to stand firm against potentially damaging laws risks losing the war by virtually surrendering the field on smaller but defining battles.

SLUTZ